



AZ POST

INTEGRITY BULLETIN

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The Arizona Peace Officer Standards and Training Board (AZ POST) is mandated by the legislature to establish and enforce the physical, mental, and moral fitness standards for all peace officers in the state. The Board meets the charge to protect the public by overseeing the integrity of Arizona's law enforcement officers by reviewing cases and taking action against the certification of individuals who violate the AZ POST Rules. The following is a summary of some of the actions taken by the Arizona Peace Officer Standards and Training Board at its **March and April 2005**, public meetings. These actions are not precedent setting, in the sense that similar cases will end with the same result, because each case is considered on its individual facts and circumstances. Having said that, this Board publishes this bulletin to provide insight into the Board's position on various types of officer misconduct. As always, the Compliance Specialist for your agency is available to discuss any matter and to assist you with any questions you might have. The "*Editor Notes*" and the "Frequently Asked Questions" section are historical observations and insights for training and discussion purposes only.

CASE NO. 1

MISFEASANCE

Officer A failed to take a report on a complaint of rock throwing. He submitted reports containing inaccurate facts and he made statements to investigators that they found untruthful. Following an administrative hearing, the Board found that the officer was lazy and inattentive to detail, but that he did not have the malevolent intent suggested by labeling his statements as "lies." It found misfeasance in office and suspended his certification for 80 hours, concurrent with the same suspension he received from his employing agency.

CASE NO. 2

CHILD ABUSE

Officer B, after an administrative hearing, was found to have technically committed child abuse by accidentally leaving bruises on his child from discipline. All parties to the hearing, including the POST Compliance Specialist, the State's Attorney, Officer B, his Attorney and the Independent Administrative Law Judge urged the Board to find that Officer B's acts were properly motivated discipline of a child with ADD. The Board adopted the ALJ's Findings of Fact and Conclusions of Law and took no disciplinary action against his certification.

CASE NO. 3

MALFEASANCE

School Resource Officer C was a self-described pornography addict. On several occasions he accessed adult pornographic websites from his assigned school computers. At no time were students present or capable of viewing the sites in his private office area. The Board adopted a consent agreement calling for a suspension of certification and noting the following mitigating factors. Officer C took full responsibility for his actions and offered no excuses. He has struggled for years with an addiction to pornography and since this incident has obtained counseling and is involved in a program with good results, according to his counselor, a Ph.D. and LCSW. The Board suspended his certification for six months for malfeasance in office and conduct that tends to diminish public trust in the law enforcement profession.

CASE NO. 4**BURGLARY**

At 10:21 p.m., Sergeant D arrived at the local elementary school in his fully marked police cruiser along with his citizen observer, and spent half an hour loading its trunk with property from the school maintenance shop. A surveillance camera captured the incident. The school reported the burglary the next day. Sergeant D attempted to return some of the items to the school a week later. The school notified his department. Sergeant D insisted that he was frustrated with the school's lax security and this was his way of teaching them a lesson. The Board found that he committed burglary, theft and malfeasance in office and revoked his peace officer certification.

CASE NO. 5**MALFEASANCE**

Officer E suspected a coyote smuggling operation was taking place at a motel in his squad area because he had spoken with a van load of Spanish speaking people in the parking lot who said they thought their relatives were in a particular room. Using a master key obtained from the manager, Officer E entered the room and found 15 to 20 people he believed to be illegal aliens. He confronted a man in the bathroom who was non-compliant by not showing his hands. He sprayed the man with pepper spray because he could not see his hands, but also because he was aggravated with the man. The man admitted, later during the investigation, that he was a "low level coyote." Officer E sent all of the people out of the room through the window, handling the matter more or less as a trespass situation. He believed, from previous experience, that the Immigration and Naturalization Service would not come out on a group so small, so he did not call them. He did not document the incident with any sort of report nor notify a supervisor. He acknowledges that the search lacked probable cause, a warrant or exigent circumstances. Officer E was terminated, but won his job back at a civil service proceeding. The Board adopted a consent agreement finding malfeasance and nonfeasance in office and suspended his certification for a period of 30 days.

CASE NO. 6**DISHONESTY**

Officer F was spotted at a local hospital by his supervisor when he had no official reason to be there. The sergeant asked him why he was there and he lied, making up a story about seeing an officer he had gone to EMT school with, rather than simply admit he intended to visit his wife who worked there. It was mitigating that this was not an internal interview situation, but a casual conversation with a supervisor. It was also mitigating that the lie did not involve his official duties as a peace officer. It was aggravating that Officer F said he has lied in the past to avoid getting in trouble. Officer F did not request a hearing or appear to defend himself. The Board suspended his certification for one year for malfeasance in office.

CASE NO. 7**DISHONESTY**

Officer G lied to internal affairs after a Garrity admonition about whether he knew about a piece of property that was the subject of the investigation. The Board revoked his certification for malfeasance in office and conduct that tends to diminish public trust in the law enforcement profession.

CASE NO. 8**ASSAULT**

Officer H assaulted his wife by grabbing her head, biting her on the lower lip and slapping her on the side of the head. The Board revoked his certification for the commission of an offense involving physical violence and malfeasance in office.

On March 16 and April 20, 2005, the Board voted to close out the following cases without initiating a Complaint for disciplinary action. This is neither a finding that no misconduct occurred nor a comment that the Board condones the conduct. In fact, the Board's rules are very broad and all misconduct violates one or more of the disciplinary rules. The Board may choose not to initiate a Complaint in a case even though there is misconduct if, considering all the circumstances, including agency discipline, the conduct does not rise to the level requiring a formal administrative proceeding. In many of these cases, the Board makes a statement that the conduct is an important consideration for a future hiring agency. By not taking disciplinary action, the Board leaves the determination of how serious the misconduct was to the discretion of an agency head who may choose to consider the officer for appointment. The Board relies on and enforces the statutory requirement of A.R.S. §41-1828.01 that agencies share information about misconduct with each other, even in cases where the Board has chosen not to take additional independent disciplinary action. Additionally, in some of these cases, further information is necessary before a charging decision can be properly made.

- An officer deliberately omitted his father's information from his POST Personal History Statement because his father disliked and distrusted police and did not want to be contacted by them.
- An officer issued a disorderly conduct citation to a person for calling the officer a "jerk."
- An officer, while on duty, offered a prescription pain medication which he lawfully possessed, to a fellow officer for pain.
- An officer failed to properly document a traffic accident.
- A Cadet adjusted the classroom thermostat without permission and failed to acknowledge it until the break after the sergeant asked the class if anyone had adjusted the thermostat.
- An officer had a pattern of not completing reports in a timely fashion and handling evidence, found property and items retained for safekeeping, contrary to agency policy.
- An officer had a pattern of using agency computers for non-business related jokes and inappropriate communications.
- An officer admitted that he had legally engaged the services of a prostitute while on visits to Mexico.

The Board adopted consent agreements calling for voluntary relinquishments or denials of certification where the following allegations had been made, but not proven.

- A deputy lied to internal affairs (after Garrity warnings) about pulling on the bra strap of another deputy. He admitted the lie after failing a polygraph examination.
- An officer pled guilty to hindering prosecution for lying to responding officers who were looking for a murder suspect about the presence of the suspect in an apartment he had just exited.
- A deputy shoplifted a package of Hostess Chocolate Donettes, ate them in the store and threw the package away before leaving the store without paying.

The Board ordered mandatory revocations for conviction of a felony for the following offenses.

- Aggravated Assault and Leaving the Scene of a Serious Personal Injury Accident, both class 3 felonies.